

SEP 25 1987

Dear Applicant:

We have completed our consideration of your application for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

According to your Articles of Incorporation, you are organized exclusively for charitable and educational purposes. More specifically, your Articles state that you are organized exclusively for the purpose of promoting and conducting a scholarship pageant for the purpose of raising funds to provide scholarships to female participants.

You are a franchised local preliminary pageant to the [REDACTED] and the [REDACTED]. The winner of your pageant will compete for the title of [REDACTED] and the girl chosen as [REDACTED] will compete for the title of [REDACTED]. Your primary activity is the conducting of your local pageant and all the various other events surrounding the pageant itself. In addition to the actual pageant, various social affairs including a pageant preview party, banquets and dances are held. Most of your receipts are from ticket sales to the pageants and other functions, from the solicitation of sponsorships, and from the sales of advertising.

Most of your funds have been spent on promoting and advertising the pageant and for the expenses actually incurred in conducting and operating the pageant and the related functions and affairs. Based on the financial data you have provided, revenues received in connection with your recent pageant amount to \$[REDACTED]. Out of that amount, a total of \$[REDACTED] is designated as actual scholarship awards for the benefit of the winner and three runnersups in the amounts of \$[REDACTED], \$[REDACTED], \$[REDACTED], and \$[REDACTED] respectively.

Scholarship awards are to be used for tuition, room, board, supplies and other college expenses. Use of the scholarship must generally begin within 1 year of the date of the award. At the termination of a winner's full year of reign, if she has graduated from college, the balance of the scholarship owed her will be paid to her in cash.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname		[REDACTED]					
Date		9/25/87					

According to your franchise agreement with the state pageant, contestants must be high school graduates between the ages 17 and 26 and they must possess talent, poise, personality, intelligence, charm and beauty of face and figure.

Contestants must enter into a contractual agreement stipulating that, if selected as a winner, they will not endorse any products competitive to products sold by the national sponsors of the [REDACTED], they will not endorse any products without the approval of the local pageant, they will not compete in any other pageants, they must compete in the State Pageant, and they must be available to appear at booked engagements during the period of their reign. Violation of the contract and contest rules will result in forfeiture of the scholarship award.

Section 501(c)(3) of the Code provides exemption for:

"Corporation...organized and operated exclusively for religious, charitable,...or educational purposes,...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that:

"An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3)..."

In Miss Georgia Scholarship Fund, Inc. v. Commissioner 72 T.C. 267 (1979) the court held that an organization whose primary activity was the conducting of a state pageant and giving scholarships to the contestants did not qualify for exemption under section 501(c)(3) of the Code. All contestants, as a condition of receiving a scholarship, were required to sign a contract that obligated them to abide by pageant rules if selected as winners. The court concluded that the amounts awarded were not scholarship as such because they were awarded in consideration of contractual obligations. Thus the organization was not furthering an educational purpose and did not qualify for exemption.

Revenue Ruling 68-20, 1968-1 C.B. 55, deals with the Federal income tax treatment of various amounts received by a taxpayer who participates in and wins a contest. The contest is a national beauty contest and pageant conducted by a profit making organization. The contestants in the national pageant are local winners from about 100 major metropolitan areas that are selected on the basis of talent, charm, and grooming. Each local winner is required to sign a contract fixing her rights and duties as a participant in the national contest, as a possible national winner.

[REDACTED]

The winner is entitled to receive a 4-year 'scholarship' to the college of her choice. Under the circumstances, the 'scholarship' is compensation to the contest winner for participation in the contest, for paying a leading role in the televised pageant, and for performing subsequent services for, and at the direction of, the corporation.

Revenue Ruling 64-182, 1964-1 C.B. 186, holds to the effect that an organization engaging in activities that are not in themselves charitable or educational may still qualify for exemption under section 501(c)(3) if it is conducting a program of making charitable grants and contributions commensurate with its financial resources.

Like the organization described above, your scholarship awards are given contingent on contestants abiding by and completing certain contractual obligations. Such payments are considered prizes or awards given for competing in and winning a contest. The awards also serve as an inducement to attract a high quality of contestants, which makes for a more successful local, state and national pageant.

In addition, even if such prizes can be considered scholarships the amounts paid out as such only amount to some [REDACTED] to [REDACTED] % of your gross receipts. We do not believe distributions of that size meet the commensurate test of Revenue Ruling 64-182.

Accordingly, we have determined that you do not qualify for exemption under section 501(c)(3) of the Code because you are not operated exclusively for educational or charitable purposes. Rather, your primary purpose is the operation of a pageant which does not further a charitable or educational purpose.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 862 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

[REDACTED]

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, you may contact the person whose name, address and phone number are shown at the beginning of this letter.

Sincerely,

[REDACTED]
District Director

Enclosure 1:
Publication 892
Form 6018

cc: [REDACTED]